

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Donald W. Meyer,
Petitioner-Appellant,

v.

Delaware County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 10-28-0256
Parcel No. 000-160-29-00-016-00

On April 22nd, 2011, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Donald W. Meyer requested his appeal be considered without hearing and did not submit additional evidence in support of his petition. He was self-represented. The Board of Review designated Delaware County Attorney John Bernau as its legal representative. The Board of Review submitted documentary evidence in support of its decision. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Donald W. Meyer, owner of property located at 2354 210th Street, Manchester, Iowa, appeals from the Delaware County Board of Review decision reassessing his property. According to the property record card, the improvements consist of a one-story, frame dwelling having 400 square feet of living area, a full unfinished basement, and an attached 384 square-foot garage built in 1900. The building has no heat, is in obsolete condition, with 99% physical depreciation, and has no assessed value. The parcel also consists of a one-story retail store built in 1950 with 2394 square feet of gross area, is in obsolete condition, with 99% physical depreciation, and has no assessed value.

Additionally, there is a 540 square-foot, one-story garage and a 600 square-foot one-story "shop" built

in 1955. The garages and concrete paving are in obsolete condition, with 99% physical depreciation, and have no assessed value. The buildings are located on a 1.750 acre site.

The real estate was classified as commercial on the January 1, 2010, assessment and valued at \$18,800, representing land value only. This was an increase from the previous year's assessment.

Meyer protested to the Board of Review on the grounds that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b) and the property was misclassified under section 441.37(1)(c). He claimed \$15,000 was the actual value and a fair assessment of the land as of January 1, 2010, and requested the property be classified residential. The Board of Review denied the protest stating, "The property owner did not provide sufficient information to prove the assessment was more than authorized by law."

Meyer then appealed to this Board on the same grounds and stated that he could not afford the taxes on his social security income and there was an error in the assessment. He requested a change to residential classification. He stated there had not been a business on the property since October 1989. He seeks an assessed value of \$14,000.

A comment on the property record card provided by the Board of Review (Exhibit B) notes that a permit was taken May 11, 2010, to demolish and remove the buildings. It also states the classification would be changed from commercial to residential as of January 1, 2011, for the next reassessment year. There is no indication whether the buildings were demolished or not. However, since only the land has an assessed value, removal of the structures alone may not change the assessment.

In support of his request for classification change, Meyer stated there has been no operating business at the site since 1989. A June 2010, comment on the property record card notes the buildings were being removed and the assessor planned to change the subject property classification from

commercial to residential in 2011. This tends to indicate the assessor no longer considers it commercial property. Meyer did not provide any evidence to support the fair market value he claims.

Reviewing the record as a whole, we find the preponderance of the evidence supports Meyer's claim that the property is misclassified, but does not support his claim that it is assessed for more than its fair market value as of January 1, 2010.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Meyer did not present any evidence to support the fair market value he claims.

Section 441.37(1)(d) is not limited solely to clerical or mathematical errors. The plain language of section 441.37(1)(d), on which the appellant rests his claim, allows a protest on the ground “[t]hat there is an error in the assessment.” § 441.21(1)(d). Meyers’s claim of error is that the property is misclassified. Meyer provided evidence to support his claim of error based on misclassification of the property. The fact that the property has not had a commercial use for more than two decades was acknowledged by the assessor and the record indicated the assessor’s intention to reclassify it from commercial to residential. See Iowa Administrative r. 701-71.1(4) and (5).

Viewing the record as a whole, we determine the preponderance of the evidence supports Meyer’s claim of misclassification in the January 1, 2010, assessment, but does not support a change in the assessed value at that time. Therefore, we modify the classification of the Meyer property assessment as determined by the Board of Review from commercial to residential class. The Appeal Board affirms property assessment value as of January 1, 2010, of \$18,800, representing \$18,800 in land value and \$0 in improvement value.

THE APPEAL BOARD ORDERS that the January 1, 2010, assessment as determined by the Delaware County Board of Review is modified as set forth herein.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Delaware County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly

Dated this 14 day of JUNE 2011.

Jacqueline Rypma
Jacqueline Rypma, Presiding Officer

Richard Stradley
Richard Stradley, Board Chair

Karen Oberman
Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>6-14</u> , 2011	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>[Signature]</u>